THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION No. 8834 of 2002

DATED: 06.07.2006

Between:

G. Nagender ……Petitioner

AND

The Managing Director,
Andhra Pradesh State Road Transport
Corporation, Musheerabad, Hyderabad
and others

….Respondents

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ORDER:

In pursuance of the tenders invited by the A.P. State Road Transport Corporation for grant of lease for running Kiosks in Mahatma Gandhi Bus Station, Imlibun, Hyderabad, the petitioner had participated and admittedly, he was the successful bidder. Consequently, the petitioner was allotted open space of 6' x 6' for the purpose of selling Safe Drinking Water in Mahatma Gandhi Bus Station and a deed of licence to that effect was executed granting licence for a period of three years w.e.f. 16.11.2001. However, the petitioner alleged that the corporation had provided the electricity connection only on 09.03.2002 and consequently, the petitioner could commence his business only with effect from 03.04.2002. In spite of the said fact, the Corporation by letter dated 25.04.2002 called upon the petitioner to remit the licence for the period from 16.12.2001 to April, 2002. The petitioner was informed that a sum of Rs.1,81,776/- was due towards the licence fee for the said period and was directed to pay the same within seven days, failing which, action would be taken to terminate the licence and adjust the amounts from the security deposit held with the Corporation. Aggrieved by the same, this writ petition is filed contending *inter alia* that since the petitioner had actually commenced the business only on 03.04.2002, the Corporation is not entitled to demand the licence fee with effect from 16.12.2001 and the licence can not be terminated on the ground of non payment of alleged arrears.

This Court, while directing rule nisi by order dated 30.04.2002, in W.P.M.P.No.10950 of 2002 granted interim suspension of the impugned proceedings dated 25.04.2002 subject to the condition of the petitioner depositing a sum of Rs.75,000/- within five weeks.

In the counter-affidavit filed on behalf of the Corporation, it is

pleaded that the petitioner is liable to pay the licence fee with effect from 16.12.2001 i.e., from the date of grant of licence in his favour.

I have heard the learned Counsel for both the parties.

Even if the plea of the petitioner that he had commenced his business only from 03.04.2002 is accepted, and the period of licence is computed w.e.f. 03.04.2002, the agreed period of licence has already expired on 02.04.2005.

As a matter of fact, the learned Counsel for the petitioner does not dispute the fact that as on today the petitioner is not carrying on business in the premises allotted to him. However, the learned Counsel for the petitioner submits that the respondent-corporation is still withholding the security deposits and since the impugned proceedings dated 25.04.2002 were arbitrary and illegal, the corporation is liable to refund the same.

Having regard to the fact that the period of licence has already expired and at any rate, since the petitioner is not in possession of the premises in question as on today it is not necessary for this Court to express any opinion on merits.

Since admittedly the Corporation has not passed any order so far, either terminating the licence or forfeiting the security deposit furnished by the petitioner, I deem it appropriate to grant liberty to the petitioner to submit his explanation treating the impugned letter dated 25.04.2002 as a show cause notice. Such explanation shall be submitted within a period of four weeks from the date of receipt of a copy of this order, in which event the respondent-Corporation shall consider the same and pass appropriate orders in accordance with law. It is made clear that till such time, the security deposits, which are still lying with respondent-Corporation shall not be forfeited.

Accordingly, the Writ Petition is disposed of. No costs.

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06th July, 2006

Note:- Furnish C.C. within three days

(By Order)

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